



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466
<http://www.epa.gov/region08>

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December 10, 2004

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Hon. John Connot
Mayor, Town of St. Ignatius
P.O. Box 693
St. Ignatius, MT 59865

Re: Administrative Order on Consent
Docket No. CWA-08-2005-0008

Dear Mayor Connot:

Thank you for signing and returning the Administrative Order on Consent ("AOC") that EPA's Montana Office sent you in September. The AOC has been signed by Carol Rushin, the Assistant Regional Administrator for Enforcement, Compliance, and Environmental Justice and has been filed with the Regional Hearing Clerk in EPA's Denver office.

If you have any questions regarding this Administrative Order on Consent, please feel free to call me at (303) 312-6858 or Rosemary Rowe at (406) 257-5020.

Sincerely,

Margaret J. Livingston

Margaret J. Livingston
Enforcement Attorney

Enclosure

cc: Rosemary Rowe, 8MOO

D. Fred Matt, Chairman
Confederated Salish & Kootenai Tribe
P.O. Box 278
Pablo, MT 59855-0278



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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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EPA REGION VIII
HEARING CLERK

In the Matter of:

The Town of St. Ignatius, Montana

Respondent.

)
)
) ADMINISTRATIVE ORDER
) ON CONSENT
)
) Docket No. CWA-08-2005-0008
)

INTRODUCTION

1. This administrative order is authorized by Congress in section 309(a)(3) of the Federal Water Pollution Control Act, commonly known as the Clean Water Act (the "Act" or the "CWA"), 33 U.S.C. § 1319(a)(3).
2. EPA alleges that the Town of St. Ignatius, Montana ("Respondent" or "Town") has violated the Act, as more fully explained below. EPA orders the Respondent, and the Respondent agrees, to take the corrective actions outlined below.
3. The undersigned U.S. Environmental Protection Agency ("EPA") official has been properly delegated the authority to issue this Order.
4. The undersigned representative of the Respondent certifies that he is fully authorized to enter into this Order and to bind the Respondent to its terms.
5. The following Findings of Fact and Law apply to all times relevant to this action and to each count of this Order. Unless otherwise noted, each statutory or regulatory provision has been in effect at all times relevant to this proceeding.

FINDINGS OF FACT AND LAW

6. In order to restore and maintain the integrity of the nation's water, section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person into navigable waters, unless authorized by certain other provisions of the Act, including section 402 of the Act, 33 U.S.C. § 1342.

7. Section 402 of the Act, 33 U.S.C. § 1342, establishes a National Pollutant Discharge Elimination System ("NPDES") program, under which EPA and, upon receiving authorization from EPA, states may issue permits authorizing discharges into navigable waters, subject to specific terms and conditions.
8. The Respondent is a political subdivision of the State of Montana.
9. The Respondent is a municipality and therefore a "person" as that term is defined in section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
10. Effective October 1, 2001, the EPA issued an NPDES permit, Permit No. MT-0020524 (the "Permit"), authorizing the Respondent to discharge treated effluent from the Respondent's wastewater treatment facility (the "Facility") to a tributary of Matt Creek, in accordance with the conditions set forth in the Permit.
11. Matt Creek is a "navigable water" and part of the "waters of the United States," as defined by section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 122.2, respectively.
12. The Facility is located on the Flathead Indian Reservation in northwestern Montana.
13. The Respondent is subject to the requirements of the Act, the Permit, and EPA's regulations implementing the Act.
14. Sections I.C and I.D of the Permit include effluent limits for fecal coliform, which are to become effective three years from the date of issuance of the permit.
15. Section I.D of the Permit includes a schedule for the Respondent to complete various milestones in funding, designing, and installing equipment to treat fecal coliform and to report to EPA that each milestone has been met.
16. According to the compliance schedule in § I.D of the Permit, the Respondent was to have obtained preliminary funding and conducted preliminary design work for the disinfection equipment no later than 12 months from permit issuance and, with the next Discharge Monitoring Report submittal, to report to EPA that this milestone had been met.
17. According to the compliance schedule in § I.D of the Permit, the Respondent was to have completed final engineering design and planning for the disinfection equipment no later than 24 months from permit issuance and, with the next Discharge Monitoring Report submittal, to report to EPA that this milestone had been met.
18. According to the compliance schedule in § I.D of the Permit, the Respondent was to have

installed and conducted a "shakedown" of the disinfection equipment no later than 30 months from permit issuance.

19. Section I.C.1 of the Permit provides, among other things, that the quality of the effluent discharged by the Facility shall, at a minimum, meet the following requirements: a 30-day average limitation for biological oxygen demand ("BOD₅") of no more than 45 milligrams per liter ("mg/l"), and a 30-day average limitation for total suspended solids ("TSS") of no more than 100 mg/l.
20. Discharge Monitoring Reports ("DMRs") submitted to EPA by the Respondent indicate that effluent from the Facility exceeded the thirty-day average effluent limitations for BOD₅ and TSS for the months listed below:

Month	BOD ₅ 45 mg/l limit	TSS 100 mg/l limit
April 2002	69	—
May 2002	51	—
April 2003	64	128
June 2003	68	—
July 2003	110	127

COUNT 1 - Violation of 12-Month Milestone

21. The Respondent did not report to EPA on its progress in obtaining preliminary funding or conducting design work for the disinfection equipment, in violation of § I.D of the Permit.

COUNT 2 - Violation of 24-Month Milestone

22. The Respondent did not complete final engineering design and planning for the disinfection equipment within 24 months from permit issuance, in violation of § I.D of the Permit.

COUNT 3 - Violation of 30-Month Milestone

23. The Respondent did not install the disinfection equipment or conduct a "shakedown" of

that equipment within 30 months from permit issuance, in violation of § I.D of the Permit.

COUNT 4 - Violations of BOD₅ Effluent Limits

24. The effluent discharged from the Facility exceeded the maximum allowable 30-day average concentration of BOD₅ in April of 2002, May of 2002, April of 2003, June of 2003, and July of 2003, in violation of § I.C.1 of the Permit.

COUNT 5 - Violations of TSS Effluent Limits

25. The effluent discharged from the Facility exceeded the maximum allowable 30-day average concentration of TSS April of 2003 and July of 2003, in violation of § I.C.1 of the Permit.

ORDER

The Respondent agrees, and EPA orders the Respondent, as follows:

26. Effective September 1, 2007, the Respondent shall no longer discharge effluent or any other pollutants from the Facility.
27. The Respondent shall adhere to the following compliance schedule in constructing the system improvements necessary to meet its deadline for ceasing discharges:
- a. Obtain all necessary funds for system improvements: no later than April 1, 2005;
 - b. Submit a written report to EPA describing the funding obtained: no later than April 15, 2005;
 - c. Submit system improvement design to EPA for review: no later than August 1, 2005;
 - d. Advertise for bids for constructing system modifications: no later than April 1, 2006;
 - e. Award a contract for construction: no later than June 1, 2006;
 - f. Submit a written report to EPA summarizing the bid advertisement process: no later than June 15, 2006; and
 - g. Complete construction: no later than September 1, 2007.

28. Until September 1, 2007, the concentration of BOD₅ in any effluent the Respondent discharges from the Facility may not exceed 45 mg/l as a 30-day average, or 65 mg/l as a 7-day average.
29. Until September 1, 2007, the concentration of TSS in any effluent the Respondent discharges from the Facility may not exceed 100 mg/l as a 30-day average, or 65 mg/l as a 7-day average.
30. Until September 1, 2007, the Respondent will not increase the number of hookups sending influent to the Facility without prior written permission from the EPA Assistant Regional Administrator named below.
31. This Order does not constitute a waiver or modification of the terms and conditions of the Permit or of any other legal responsibility or liability of the Respondent. The Permit will remain in full force and effect, unless and until modified by EPA in accordance with the Act and 40 C.F.R. part 124. EPA retains the right to initiate proceedings to modify the Permit as appropriate, and the Respondent will not contest any modification of the Permit that is consistent with the terms of this Order. The Respondent will submit all appropriate applications for modifications as reasonably requested by EPA to reflect the intent of this Order.

OTHER PROVISIONS

32. EPA regulations protect confidential business information. See 40 C.F.R. part 2, subpart B. If Respondent asserts a business confidentiality claim for information required to be submitted under this Order, Respondent shall provide such information to EPA, and EPA will determine if the information the Respondent has designated meets the criteria in 40 C.F.R. § 2.208 for being treated as confidential. Unless Respondent asserts a confidentiality claim at the time the information is submitted, EPA may make the information available to the public without further notice to the Respondent.
33. All written notices and reports required by this Order shall be sent to:

Rosemary Rowe
U.S. EPA Region 8 Montana Office
Federal Office Building
10 West 15th Street, Suite 3200
Helena, MT 59626
34. Any failure to comply with the requirements of this Order shall constitute a violation of this Order and may subject the Respondent to penalties as provided under § 309 of the Act, 33 U.S.C. § 1319.

35. This Order does not constitute a waiver of or election by EPA to forego any civil or criminal action to seek penalties, fines or other relief under the Act. The Act authorizes EPA to seek civil penalties of up to \$32,500 per day for each violation of the Act. 33 U.S.C. § 1319(d); 40 C.F.R. part 19. EPA may also seek fines and/or imprisonment for knowing or negligent violations of the Act. 33 U.S.C. § 1319(c).
36. This Order shall become effective immediately upon the signature of each party.

Date: 12/9/04

By: Carol Rushin
Carol Rushin
Assistant Regional Administrator

Date: 11/22/2004

By: John Connot
John Connot
Mayor, Town of St. Ignatius